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RUSSELL SCOTT CREIGHBAUM AND
KRISTY MICHELE CREIGHBAUM

VERSUS

STEPHEN PHILLIP MARVEL, SDR
TRUCKING, LLC, AND CHEROKEE
INSURANCE COMPANY

SUIT NUMBER: 593,964

FIRST JUDICIAL DISTRICT COURT

CADDO PARISH, LOUISIANA

ASSIGNMENT: SECTION "A"

PETITION FOR DAMAGES

The petition for damages of RUSSELL SCOTT CREIGHBAUM and KRISTY MICHELE CREIGHBAUM, petitioners herein who are husband and wife and who are persons of the full age of majority residing in Caddo Parish, Louisiana, respectfully represents as follows:

1.

Petitioners herein are:

- a. **RUSSELL SCOTT CREIGHBAUM**, a person of the full age of majority who is a resident of Caddo Parish, Louisiana, and married to Kristy Michele Creighbaum, who appears herein in his individual capacity and in his capacity as the natural tutor and administrator of the estate of his natural, biological minor children, namely: Taylor Creighbaum and Alex Creighbaum.
- b. **KRISTY MICHELE CREIGHBAUM**, a person of the full age of majority who is a resident of Caddo Parish, Louisiana, and married to Russell Scott Creighbaum, who appears herein in her individual capacity and in her capacity as the natural tutrix and administrator of the estate of her natural, biological minor children, namely: Taylor Creighbaum and Alex Creighbaum.

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2.

Defendants herein are:

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E. G. BRUMLEY
CADDY PARISH CLERK OF COURT

- a. **STEPHEN PHILLIP MARVEL** ("Marvel"), a person of the full age of majority who is a non-resident of the State of Louisiana but who is a resident of Marion, Crittenden County, Arkansas, residing at 854 Boulevard Orleans S., Marion, Arkansas 72364 or Savannah, Hardin County, Tennessee, residing at 310 Partridge Lane, Savannah, Tennessee 38372, and who may be served pursuant to the Louisiana Long Arm Statute and LSA-R.S. 13:3474. Stephen Phillip Marvel is being sued herein individually and as the employee and/or agent of SDR Trucking, LLC;
- b. **SDR TRUCKING, LLC** ("SDR Trucking"), a foreign limited liability company organized under the laws of the State of Tennessee located at 5600 Universal Dr., Memphis, Tennessee 38118-7923 which is a non-resident of the State of Louisiana not authorized to do but doing business in the State of Louisiana which may be served through the Louisiana Long Arm Statute and LSA-R.S. 13:3474. SDR Trucking is being sued individually and as the employer of Stephen Phillip Marvel; and
- c. **CHEROKEE INSURANCE COMPANY**, ("Cherokee"), a foreign insurance company authorized to do and doing business in the State of Louisiana which may be served through the Louisiana Secretary of State. Cherokee is being sued as the

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liability insurer of Stephen Phillip Marvel and SDR Trucking, LLC.

3.

Defendants are liable, *in solidi*, to petitioners for the reasons stated herein.

4.

On or about July 15, 2015, your insured, Stephen Marvel, was driving an 18-wheeler southbound on US Hwy 79 approaching Buncombe Road in Caddo Parish, Louisiana.

5.

Petitioners, along with their two minor children, Taylor Creighbaum and Alex Creighbaum, were traveling northbound on US Hwy 79 behind a truck driven by Edward Duraczynski who was pulling a trailer hauling an Infiniti QX60 on board.

6.

The 18-wheeler driven by Stephen Marvel crossed the centerline into the northbound lane and struck Mr. Duraczynski's vehicle and trailer thereby causing the trailer to separate and launching the Infiniti QX60 crashing into the vehicle in which petitioners and their minor children were riding.

7.

The investigating Caddo Parish Deputy noted in the Uniform Motor Vehicle Traffic Crash Report that Stephen Marvel committed the violation of "DRIVING LEFT OF CENTER" and that Mr. Marvel's movement prior to the crash was "CROSSED CENTER LINE INTO OPPOSING LANE."

8.

Prior to the collision, petitioners Russell and Kristy Creighbaum saw the deadly events unfolding before their eyes and could not react to prevent the collision. Both petitioners had intense fear of death and they thought that they and their minor children were going to die from these events.

9.

Due to the severe damage to petitioners' vehicle and the inability to exit the vehicle and tend to their minor children, the petitioners, including their minor children, continued to suffer severe emotional distress that there were severe injuries among them. This intense fear and these

severe emotional scars still haunt the petitioners and their minor children to this day.

10.

Petitioners and their minor children sustained general damages, including mental and physical injuries, past, preset, and future, from the accident caused by the defendants herein.

11.

Petitioners are also entitled to special damages, past, present, and future, as a result of this accident which include the following: medical bills and expenses; copy of accident report; loss of sales tax credit from loss of trade-in of vehicle; and trailer hitch.

12.

Presently, defendant Stephen Marvel is charged in the First Judicial District Court, Caddo Parish, Louisiana, in Docket Number 339743 with First Degree Vehicular Negligent Injury arising from this accident as to injuries caused to another person, and based upon the discovery reports filed in the public record by the Caddo Parish District Attorney's Office, it appears that Mr. Marvel was under the influence of several drugs, many of which have known adverse impairment interactions.

13.

The Caddo Parish Deputy investigating this accident noted that Stephen Marvel's speech was very slurred, his tongue was very white like a ball of cotton, his responses were very slow, and his words were drawn out. When the deputy asked Stephen Marvel if he was on any medication he responded, "Yeeesss." A second deputy also investigating this matter interviewed Mr. Marvel and asked Mr. Marvel if he had taken any medications. Mr. Marvel said he took his prescribed medications on the morning of July 15, 2015.

14.

The discovery filed into the public record by the District Attorney contained blood test results confirming that six different drugs were in Stephen Marvel's system. The combined effect of these drugs, most of which are not supposed to be combined because of enhanced effects and risks of intoxication, caused and contributed to Stephen Marvel's intoxication.

15.

The blood test results confirm the intoxication observed by the Caddo Parish deputies.

16.

In addition to general and special damages, exemplary damages may be awarded upon proof that the injuries on which the action is based were caused by a wanton or reckless disregard for the rights and safety of others by a defendant whose intoxication while operating a motor vehicle was a cause in fact of the resulting injuries. See Louisiana Civil Code Article 2315.4.

17.

In this case, petitioners and their minor children are entitled to an award of exemplary damages, in addition to general and special damages, because the injuries on which this action is based were caused by a wanton or reckless disregard for the rights and safety of others by Stephen Marvel whose intoxication while operating a motor vehicle was a cause in fact of the resulting injuries to petitioners and their minor children.

18.

All of the named defendants are liable, *in solidi*, to petitioners.

19.

All of the named defendants are joint tortfeasors and are jointly liable to petitioners.

20.

Petitioner, Russell Scott Creighbaum, as a result of the injuries sustained by his wife, Kristy Michele Creighbaum, has experienced a loss of consortium, service, and society and, therefore, is entitled to damages.

21.

Petitioner, Kristy Michele Creighbaum, as a result of the injuries sustained by her husband, Russell Scott Creighbaum, has experienced a loss of consortium, service, and society and, therefore, is entitled to damages.

22.

The proximate cause of the damages and injuries of petitioners and petitioners' minor children was due to the fault of Marvel and SDR Trucking, more specifically, the negligent acts and/or omissions of Marvel and SDR Trucking in the following non-exclusive particulars:

- a. Failure to exercise reasonable care;
- b. Failure to act as a reasonable person under the same or similar circumstances;

- c. Failure to keep a proper look-out;
- d. Failure to maintain the proper distance away from petitioner's vehicle;
- e. Failure to maintain proper control of his vehicle;
- f. Failure to take sufficient measures to prevent the impact with petitioner's vehicle;
- g. Being inattentive and/or distracted;
- h. Crashing into petitioner's vehicle;
- i. Failure to yield to petitioner's vehicle;
- j. Driving his vehicle while intoxicated;
- k. Driving left of center;
- l. Crossing the center line into the opposing lane of traffic; and
- m. Failure to observe and obey Louisiana laws governing the operation of motor vehicles.

23.

At all pertinent times herein and above, SDR Trucking was responsible for the fault and/or liability of its agents and/or employees for all claims and the cause of action cited herein, which employees include, but are not limited to, Marvel. At all times material to this petition, SDR Trucking is liable for the actions of its agents and/or employees, including Marvel, to the extent its employees were acting in their capacities as either agents or employees of SDR Trucking, thereby placing liability upon SDR Trucking pursuant to the theories of agency, respondeat superior, and vicarious liability for all causes and claims stated herein arising under the laws of the State of Louisiana.

24.

At all pertinent times herein and above, there was in full force and effect a contract of insurance issued by Cherokee Insurance Company insuring the fault and/or liability of Marvel and SDR Trucking for all claims and the cause of action cited herein.

25.

Cherokee Insurance Company, as the insurer of Marvel and SDR Trucking, is liable jointly and *in solido* with Marvel and SDR Trucking to petitioners for all claims and the cause of action cited herein.

26.

Petitioners reserve the right to add any other insurer of Marvel and/or SDR Trucking as a defendant because such other insurer's liability is joint and solidary with Marvel and/or SDR Trucking.

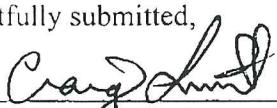
27.

Petitioners specifically reserve all rights to add as defendants other persons, entities, agents, employees, co-conspirators, joint tortfeasors, and/or solidarily liable tortfeasors of and with the named defendants arising out of the matter complained of herein.

WHEREFORE, petitioners prays as follows:

- a. For Judgment herein in favor of petitioners, RUSSELL SCOTT CREIGHBAUM and KRISTY MICHELE CREIGHBAUM, individually and on behalf of their minor children, Taylor Creighbaum and Alex Creighbaum, and against the defendants, STEPHEN PHILLIP MARVEL, SDR TRUCKING, LLC, and CHEROKEE INSURANCE COMPANY, jointly and *in solido*, for reasonable damages, both general and special, in an amount to be determined by this Honorable Court, together with legal interest thereon from date of judicial demand, until paid;
- b. For Judgment herein in favor of petitioners, RUSSELL SCOTT CREIGHBAUM and KRISTY MICHELE CREIGHBAUM, individually and on behalf of their minor children, Taylor Creighbaum and Alex Creighbaum, and against the defendants, STEPHEN PHILLIP MARVEL, SDR TRUCKING, LLC, and CHEROKEE INSURANCE COMPANY, jointly and *in solido*, for exemplary damages in an amount to be determined by this Honorable Court, together with legal interest thereon from date of judicial demand, until paid;
- c. For all costs of these proceedings, including witness fees, expert witness fees, costs of the clerk and sheriff, costs of taking depositions, and all other costs allowed by this Honorable Court; and
- d. For all other relief, both general and equitable, which is necessary and proper in the premises.

Respectfully submitted,



Kenneth Craig Smith, Jr.
Bar Roll No. 22623
SMITH & JOHN

3646 Youree Drive
Shreveport, LA 71105
(318) 219-1001
(318) 219-1002 fax

ATTORNEY FOR PETITIONERS,
RUSSELL SCOTT CREIGHBAUM and
KRISTY MICHELE CREIGHBAUM,
individually and on behalf of their minor
children, Taylor Creighbaum and Alex
Creighbaum

SERVICE INSTRUCTIONS

Please serve the defendants as follows:

1. **CHEROKEE INSURANCE COMPANY**
through its agent for service
Louisiana Secretary of State
8585 Archives Ave.
Baton Rouge, LA 70809
2. **STEPHEN PHILLIP MARVEL**
through its agent for service pursuant to R.S. 13:3474
Louisiana Secretary of State
8585 Archives Ave.
Baton Rouge, LA 70809
3. **SDR TRUCKING, LLC**
through its agent for service pursuant to R.S. 13:3474
Louisiana Secretary of State
8585 Archives Ave.
Baton Rouge, LA 70809
4. **PLEASE PREPARE A LONG-ARM CITATION FOR**
STEPHEN PHILLIP MARVEL
854 Boulevard Orleans S.
Marion, Arkansas 72364
5. **PLEASE PREPARE A LONG-ARM CITATION FOR**
STEPHEN PHILLIP MARVEL
310 Partridge Lane
Savannah, Tennessee 38372
6. **PLEASE PREPARE A LONG-ARM CITATION FOR**
SDR TRUCKING, LLC
through its agent for service
MARY ANN JACKSON
165 MADISON AVE. FL 20
MEMPHIS, TN 38103-2723